

REMARKS

Claims 1 through 29 are pending in the subject patent application. The Patent Office has acknowledged receipt of all 29 claims. The Office Action of 06/04/2004 rejected all 29 claims, and the Applicants overcame those rejections by filing a Terminal Disclaimer. However, the Examiner has addressed only claims 1 through 24 in the present Office Action. In the absence of any pending action on claims 25 through 29 by the Examiner, the Applicants can only reiterate their belief that claims 25 through 29 are allowable. Further, the Examiner has indicated on the Office Action Summary that claim 18 is rejected; however, the Examiner has not addressed claim 18 in the Detailed Action. In the absence of any detailed action on claim 18 by the Examiner, the Applicants can only reiterate their belief that claim 18 is allowable. Claims 1 through 17 and 19 through 24 have been rejected. The drawings have been objected to by the Examiner. Accordingly, claim 1 has been amended to overcome the grounds of rejection. Further, although claims 25, 26, 28, and 29 have not been rejected in the present Office Action, these claims have been amended only to comply with formal requirements, by repeating the amended language of claim 1.

Discussion of Amendments to the Claims

Specifically, claim 1 has been amended to recite the sensing of a changing response as the eye moves through a plurality of eye positions, rather than the sensing of a plurality of responses at a plurality of eye positions. Support for this amendment is found in the specification at page 5, lines 13 through 17; page 22, lines 5 and 6; page 23, lines 27, 28, and 29; page 24, lines 14 through 16; page 25, lines 17 through 21; and page 26, lines 1 and 2.

Claims 25, 26, 28, and 29 have been amended to mirror the amended language in their base claim; no new limitations have been added to these claims.

Reconsideration of the rejected claims is respectfully requested in view of these amendments and the arguments below.

Discussion of Amendments to the Drawings

The Examiner has objected to the Figures because they do not show a “flexible container”. The “flexible container” is only mentioned in claim 24. Claim 24 is a method claim which recites the placement of the flexible container holding a deformable material. It has been

established that the apparatus recited in a method claim is required to be shown in a Figure only if the meaning of the method claim would be unclear to a person skilled in the art without such a Figure. In this case, the Applicants respectfully submit that a person skilled in the art does not need to see a Figure of a flexible container, such as a water bag (see page 26, lines 25 through 28), to understand the placement of the flexible container as recited in claim 24. Therefore, the Applicants respectfully submit that no amendment of the Figures is required.

Discussion of Rejections under 35 U.S.C. §103

Claims 1 through 13 and 17 have been rejected under 35 U.S.C. §103 as being unpatentable over Chamberlain in view of Schocket. Claims 14 through 16 and 19 through 24 have been rejected under 35 U.S.C. §103 as being unpatentable over Chamberlain in view of Schocket, and further in view of Wikswo. In both of these rejections, the Examiner contends that Schocket discloses the use of a gaze fixation device to hold the patient's eye at a fixed position, followed by movement of the eye to a new fixed position, to allow for the examination of the eye at these fixed positions. The Applicants respectfully submit that amended claim 1 overcomes this rejection.

Amended claim 1 of the present application recites the sensing of a changing response from the eye, using the magnetic sensor, as the eye moves. Chamberlain neither discloses nor suggests the sensing of a changing response from the eye, using the magnetic sensor, as the eye moves. In fact, Chamberlain does not disclose or suggest any eye movement during examination. Schocket neither discloses nor suggests the sensing of a changing response from the eye, using the magnetic sensor, as the eye moves. In fact, as the Examiner has noted, Schocket teaches that the eye should be stationary during examination. Wikswo has no bearing on this issue.

Consequently, claim 1 avoids a prima facie showing of obviousness with respect to the cited combination of references. Because claims 2 through 29 either directly or indirectly depend on claim 1, they also are distinguishable over the cited combination of references.

The Applicants respectfully submit that claims 1 through 29 are patentable, and that the application is now in a condition for allowance. An early Notice of Allowance is respectfully

requested. The Examiner is requested to call the undersigned at (360)692-4506 for any reason that would advance the instant application to issue.

Dated this 17th day of March, 2005.

Respectfully submitted,



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CERTIFICATE OF MAILING UNDER 37 CFR § 1.8

I hereby certify that this Response to Office Action is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria VA 22313-1450, on this, the 17th day of March, 2005.



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